



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN
~~WILLIAMSON~~
ATTORNEY GENERAL

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-3534

Re: The proper allocation of the taxes
collected under Article XVIII of
House Bill 8, Acts of the Regular
Session of the 47th Legislature.

We are in receipt of your letter of May 16, 1941, in
which you request the opinion of this department on the follow-
ing questions:

"Section 4 of Article XVIII of House
Bill No. 8, Acts of the Regular Session of the
Forty-seventh Legislature, recites: 'To be
allocated as hereinafter provided in this Act.'
That, of course, is referring to the taxes
levied and collected under Article XVIII.

"Article XX of the same Act that makes
the allocation of other funds collected under
House Bill No. 8 makes no mention of the taxes
collected under Article XVIII. I find no other
place in House Bill No. 8 where the moneys col-
lected under Article XVIII are allocated and no
other language in the Act except Section 4 of
Article XVIII that mentions any allocations of
the moneys collected under Article XVIII. I
will therefore thank you to advise this depart-
ment as to the proper allocation of the moneys
collected under Article XVIII above mentioned.

"There is now approximately \$800,000.00 in
the Suspense Fund collected by the Insurance De-
partment under the laws existing at the time
House Bill No. 8 was enacted. The Insurance Com-
mission is waiting advice from this department
as to the proper allocation of this \$800,000.00
before clearing it from the Suspense Fund. This
\$800,000.00 was collected and placed in the Sus-
pense Fund prior to the enactment of House Bill
No. 8. I will thank you to advise this depart-

ment what is the proper allocation of the \$800,000.00 now in the Suspense Fund."

As you point out Section 4 of Article XVIII, provides as follows:

"To be allocated as hereinafter provided in this Act."

Article XX of said Act is the section that makes the allocations and provides in part as follows:

"Section 1. All revenue, other than that part allocated for enforcement purposes, derived and collected from the taxes levied by Chapter 241, Acts of the Regular Session, Forty-fourth Legislature, and any amendments thereof or thereto, shall be hereafter and is hereby allocated as follows: one fourth ($\frac{1}{4}$) to the Available School Fund of the State of Texas and three fourths ($\frac{3}{4}$) into the Clearance Fund provided by this Act.

All laws and parts of laws in conflict with this section are repealed to the extent of such conflict only.

"Sec. 2. All revenue derived from and collected under Article VIII of this Act shall be paid into the General Revenue Fund of the State of Texas. All revenue derived from and collected under Article XIII of this Act shall be and is allocated as now provided by law. All revenue derived from and collected under Article XVII of this Act shall be allocated as provided in Section 25 of said Article.

"From all revenue derived and collected under the provisions of Articles I, II, III, IV, V, VI, VII (subdivision a), IX, X, XI, XII, XIV, XV, and XVI of this Act after deduction of that portion provided for enforcement purposes, there shall be allocated to the Available School Fund one fourth ($\frac{1}{4}$) of the total sum collected thereunder and same shall be deposited and credited to the Available School Fund in the State Treasury.

"After deduction of the allocation provided in the next preceding paragraph to be apportioned to the Available School Fund, the balance of the funds collected under Article I, II, III, IV, V, VI, VII (subdivision a), IX, X, XI, XII, XIV, XV,

and XVI of this Act shall be deposited in a Clearance Fund in the Treasury, and from such Fund the revenues so derived and collected shall be transferred and allocated by the State Treasurer as follows:

" . . . "

The above quoted portion of Article XX contains several different allocations; for example, the revenue derived from Article 8 is allocated into the General Fund of the State, the revenue derived from Article 13 is allocated as now provided by law, and the revenue collected from numerous other articles are to be put into a Clearance Fund and the money from said Clearance Fund is to be allocated and appropriated to various other funds. However, while Section 4 of Article XVIII, provides that the tax monies collected thereunder are to be allocated as thereafter provided in the Act, we are unable to find any provision in the Act allocating the money collected under said Article XVIII. It is our opinion that in view of such failure in the Act to allocate such moneys the same must be allocated as is now provided under the General Law, that is, one-fourth to the available school fund and three-fourths to the General Fund of the State.

It follows from our answer to your first question that the \$800,000.00 in the Suspense Fund which you described must also be allocated as is now provided by General Law, that is, one-fourth to the Available School Fund and three-fourths to the General Fund of this State.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Billy Goldberg
Billy Goldberg
Assistant

BG:lh:wc

APPROVED MAY 22, 1941
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/BWB Chairman